



U.S. Citizenship
and Immigration
Services

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FILE:

OFFICE: NEW YORK, NY

DATE: JUN 09 2006

IN RE:



APPLICATION: Application for Replacement Naturalization/Citizenship Document under Section 338 of the Immigration and Nationality Act, 8 U.S.C. § 1149.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, New York, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

Volume 8 of the Code of Federal Regulations (8 C.F.R.) section 103.3(a)(2)(i) provides that in order to properly file an appeal, the affected party must file the complete appeal within 30 days after service of the unfavorable decision (within 33 days if the decision was mailed).

The district director issued the applicant's denial decision on April 14, 2005. The record reflects that the applicant's appeal was received by U.S. Citizenship and Immigration Services (CIS) on May 24, 2005, more than 33 days after her denial decision was issued.

8 C.F.R. § 103.3(a)(2)(i) states that, "[t]he affected party shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 [33] days after service of the decision." 8 C.F.R. § 103.3(a)(2)(v)(B)(2) provides further that an appeal which is not filed with the AAO within the time allowed must be rejected as improperly filed.

8 C.F.R. § 103.3(a)(2)(v)(B)(2) provides that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding. *See* 8 C.F.R. § 103.5(a)(1)(ii). The district director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

The record reflects that the present appeal was untimely filed. The appeal must therefore be rejected.

ORDER: The appeal is rejected.